IN THE HIGH COURT OF PUNJAB AND HARYANA, CHANDIGARH.

Date of Decision: 15.11.2006

Harbhinder Kaur ..Petitioner

Versus

Hindustan Petroleum Corporation Limited and others ..Respondents

CORAM: HON'BLE MR. JUSTICE H.S.BHALLA

Present:- Mr. Chetan Mittal, Advocate,
for the petitioner.

Mr. Anil Malhotra, Advocate,
for respondent Nos. 1 and 2.

Mr. S.C.Kapoor, Senior Advocate
with Mr. Ashish Kapoor, Advocate,
for respondent No.3.

H.S.BHALLA, J.

What is the effect of non-issuance of an interview letter and whether any interview letter was required to be issued, are the questions which arise for determination in this writ petition filed under Article 226 of the Constitution of India?

For the purpose of deciding this controversy, it is necessary to peep through the relevant facts, which are noticed as under:-

Respondent No.1 advertised a notice in the newspaper vide Annexure P-1 for LPG Distributorship for HP Gas for Dhinanagar, Gurdaspur under open category reserved for women category only. In response to this advertisement, the petitioner deposited an amount of Rs.250/- for the application form and accordingly, application form No.24957 was issued. The petitioner submitted all the documents along with application to the respondents and after verification, a receipt was issued on 10.7.1988 in respect of application form mentioned above. It has been categorically pleaded by the petitioner that she kept on waiting for an

interview letter from respondent No.1, but no interview letter was ever issued. Later on, the petitioner learnt that the candidates had already been called for interview and on 31.1.2001 an award list had already been prepared. The petitioner represented immediately on account of non-issuance of interview letter to respondent No.2 through its Chairman, but no response was received by him. Finally, it has been prayed that the allotment process, including award list is totally illegal, particularly when the petitioner has not been allowed to participate, as no interview letter was issued to her and the process is liable to be quashed.

On the other hand, the petition was contested by the respondents. Respondent Nos. 1 and 2 filed a joint written statement, whereas respondent No.3 opted to file a separate written statement. Through the written statements by denying most of the assertions, it was prayed that the petition be dismissed. However, it has been categorically admitted that in pursuance to the instructions issued by the Ministry of Petroleum and Natural Gas, Government of India, all applicants who had submitted applications earlier in response to the advertisement in which no interviews were held and selections were pending, were required to apply again in response to fresh advertisements to be issued by the Oil Companies. Copy of the instructions dated April 26,2000 issued by the Government of India in this regard was placed on record as Annexure R-1. It has been further pointed out that in pursuance to the above directives issued by the Ministry of Petroleum, Government of India, internal guidelines dated July 18, 2000, were issued by respondent No.1 for taking appropriate steps for issuing re-advertisement as per the above policy decision. It has been further pointed out that respondent No.1 re-advertised in the `Tribune' dated August 24,2000 as also in the `Punjab Kesari' dated August 25,2000. Copies of the fresh advertisements so published in “The Tribune” (English) and “Punjab Kesari” are annexed with the petition as

Annexure R-3. Consequently, the petitioner was not called for interview, nor any representation was received either by respondent No.1 or respondent No.2 prior to January 31, 2001 before the interviews were held for the subject locations. Finally, it was prayed that the petition be dismissed.

I have heard the learned counsel for the parties and have also gone through the record of the case.

It is an admitted case of both the parties that in response to an earlier advertisement (Annexure R-1), the petitioner submitted her application, but after re-advertisement, no application was submitted by the petitioner. The entire case of the parties revolves around the instructions dated April 26,2000 (Annexure R-1) and in order to effectively decide the controversy between the parties, it is necessary to reproduce these instructions, which runs as under:-

No.P-39012/1/99-IOC

Government of India

Ministry of Petroleum and Natural Gas

Shastri Bhawan

New Delhi, the 26th April,2000

The Chairman

Indian Oil Corporation Limited

New Delhi.

The Chairman & Managing Director

HPCL/BPCL

Mumbai.

The Chairman & Managing Director

IBP Co.Limited

Calcutta.

" I am directed to refer to this Ministry's letter of even

number dated January 21,2000, vide which the Dealer Selection Boards were dissolved and to request that further action as indicated below, may kindly be taken in respect of retail outlet dealership LPG distributorship SKO-LDO dealerships for which selection of dealers distributors is pending:

(i) The oil Companies will issue advertisements in respect of those dealerships/distributorships which were advertised earlier, but no interviews were held.

(ii) the applicants who had made applications earlier in response to an advertisement are required to apply again. However, they are not required to deposit the application fee again. A copy of the receipt of the fee deposit made earlier has to be attached with the new application to establish that the necessary fee has already been paid.

(iii) The fresh applications which are received against the re-advertisement or fresh advertisements will be scrutinised by the Oil Companies as per the extant procedure.

Yours faithfully,

Sd/-(Jag Ram)

Deputy Secretary to the Govt.of India."

A perusal of the instructions reproduced above clearly spells out that the applicants who had made applications earlier in response to an advertisement, are required to apply again and they were not required to deposit the application fee again and after receipt of the fresh applications against the re-advertisement, they were required to be scrutinised by Oil Companies in accordance with their rules. In response to these instructions, the Hindustan Petroleum Corporation Limited re-advertised in

"The Tribune" and "Punjab Kesri". A fresh advertisement further spells out that it has been clearly mentioned therein that the candidates would have to apply afresh on the prescribed application form, but no fresh application fee was required to be deposited. It was also made clear that the earlier applications will not be considered if the applicants do not apply afresh, as mentioned above. In such like circumstances, to my mind, the petitioner cannot be granted advantage of her own wrongs since she herself is at fault by not submitting fresh application, as required under the instructions and the fresh advertisement, mentioned above. No interviews were held in response to the application submitted by the petitioner on July 9,1998, which was submitted pursuant to the advertisement dated June 10,1998. Process of selection remained pending and on the decision taken by the ministry of Petroleum, Government of India, fresh advertisement was issued, as discussed above. Moreover, the petitioner slept over her rights and she never made any written inquiry after the submission of her application dated July 9,1998 to enquire about the fate of her application. In response to fresh advertisement, interviews of the subject locations were held on January 31,2001, whereas representation (Annexure P-3) was filed by the petitioner after the entire procedure had been completed and after publication of the list of the selected candidates. Accordingly, on January 31,2001 itself, merit panel was finalised wherein respondent No.3 was shown at serial No.1 in order of merit. The record further spells out that representation (Annexure P-3) submitted by the petitioner was received by the office of respondent No.2 on February 27,2001, which was forwarded to the office of respondent No.1 on March 5,2001 and in fact, the petitioner was rightly not called for interview, inasmuch as she had not applied afresh.

Keeping in view the facts and circumstances mentioned above, no injustice has been done to the petitioner in any manner and there is

nothing to be set right. In the final analysis, the petition is dismissed, leaving the parties to bear their own costs.

15.11.2006 (H.S.BHALLA)
VK JUDGE